

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 617**

Introduced by Cornett, 45.

Read first time January 21, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to county community buildings; to amend  
2 sections 23-2901, 23-2902, 23-2903, 23-2904, 23-2905,  
3 23-2906, 23-2907, 23-2908, 23-2909, 23-2911, 31-763,  
4 31-764, 31-765, and 31-766, Reissue Revised Statutes  
5 of Nebraska; to provide and change provisions relating  
6 to purpose, building uses, districts, petitions,  
7 hearings, notice, boundaries, boards of trustees, taxes,  
8 warrants, and annexation; to define a term; to harmonize  
9 provisions; and to repeal the original sections.  
10 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 23-2901, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           23-2901 (1) The Legislature finds that it is in the  
4 public interest to encourage maintenance of community buildings  
5 and grounds for the housing of various community enterprises and  
6 activities and for social, athletic, and recreational purposes and  
7 that different methods of accomplishing ~~this~~ such purposes should  
8 be made available in order to meet the desires and needs of  
9 different areas of the state.

10           (2) The Legislature further finds that substantially  
11 urbanized counties face unique challenges in bringing governmental  
12 and community services to urbanized areas outside of municipalities  
13 and in promoting economic development in areas without municipal  
14 services. The Legislature finds that it is in the public interest  
15 to permit substantially urbanized counties to utilize community  
16 building districts to facilitate development of such districts in a  
17 manner that will maximize the ability to provide social, athletic,  
18 recreational, educational, health, wellness, and related community  
19 purposes to inhabitants of a substantially urbanized county.

20           Sec. 2. For purposes of sections 23-2901 to 23-2915,  
21 substantially urbanized county means a county:

22           (1) With a population of more than one hundred thousand  
23 inhabitants;

24           (2) In which is located neither a city of the  
25 metropolitan class nor a city of the primary class;

1           (3) In which is located at least one city of the first  
2 class; and

3           (4) With a population residing outside the corporate  
4 limits of any city equal to no less than one-third of the minimum  
5 number of inhabitants required for a city to constitute a city of  
6 the primary class as defined in section 15-101.

7           Sec. 3. Section 23-2902, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           23-2902 Any county in the State of Nebraska is hereby  
10 authorized to acquire a site or sites for or to acquire, construct,  
11 renovate and ~~to~~ equip a county community building or buildings  
12 and adjoining grounds for housing county enterprises and community  
13 activities and for social, athletic, and recreational purposes.

14           Sec. 4. Section 23-2903, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           23-2903 The county board of any county may (1) make such  
17 rules and regulations as may be appropriate with respect to the  
18 use of any such building and adjoining grounds, including fees  
19 and charges for such use, (2) enter into agreements with any  
20 city, village, or school district in such county or any private  
21 party with respect to the use, maintenance, and support of any  
22 such building, and (3) use any available funds, including federal  
23 revenue-sharing funds, to aid in the acquisition, construction,  
24 renovation, or equipping of any such building and adjoining  
25 grounds.

1           Sec. 5. Section 23-2904, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           23-2904 (1) A majority of the resident taxpayers in  
4 any compact and contiguous district, territory, neighborhood, or  
5 community in the State of Nebraska, which is equivalent in area to  
6 one township or more, is hereby authorized to form, organize, and  
7 establish a community building district which shall be empowered  
8 to acquire, construct, equip, and maintain a community building or  
9 buildings for the purposes set forth in section 23-2901 when the  
10 organization thereof is completed.

11           (2) A majority of the owners having an interest in the  
12 real property within the limits of a proposed community building  
13 district situated in a substantially urbanized county in this  
14 state are authorized to form, organize, and establish a community  
15 building district which shall be empowered to acquire, construct,  
16 equip, and maintain a community building or buildings for the  
17 purposes set forth in section 23-2901 when the organization thereof  
18 is completed.

19           Sec. 6. Section 23-2905, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           23-2905 (1) Whenever a majority of the resident taxpayers  
22 of any such district, territory, neighborhood, or community intends  
23 or desires to form, organize, and establish a community building  
24 district pursuant to subsection (1) of section 23-2904 which will  
25 be empowered to acquire, construct, equip, and maintain a community

1 building or buildings for the purposes set forth in section 23-2901  
2 when the organization thereof is completed, they shall signify such  
3 intention or desire by presenting to the county board of the county  
4 in which the greater portion of the land proposed to be included in  
5 such district is situated a petition setting forth the desires and  
6 intentions of such petitioners. Such petition may be in the form  
7 of two or more separate petitions which read substantially the same  
8 except for the different signatures and addresses thereon. Such  
9 petition shall contain the full names and post office addresses of  
10 the petitioners, a statement of the area in square miles, and the  
11 complete description of the boundaries of the real properties to  
12 be embraced in the proposed district. When such proposed district  
13 includes any municipality, the petitions must be signed by a  
14 majority of the resident taxpayers within such municipality and by  
15 a majority of the resident taxpayers outside such municipality and  
16 within the boundaries of the proposed district.

17 (2) (a) A majority of the owners having an interest in the  
18 real property within the limits of a proposed community building  
19 district to be organized pursuant to subsection (2) of section  
20 23-2904 which will be empowered to acquire, construct, equip,  
21 or maintain a community building or buildings for the purposes  
22 set forth in section 23-2901 may create and sign articles of  
23 association in which shall be stated (i) the name of the district,  
24 (ii) that the district will have perpetual existence, (iii) the  
25 limits of the district, (iv) the names and places of residence

1 of the owners of the land in the proposed district, (v) the  
 2 description of the several tracts of land situated in the district  
 3 owned by those who may organize the district, (vi) the name or  
 4 names and the description of the real estate owned by such owners  
 5 as do not join in the organization of the district but who will be  
 6 benefited thereby, and (vii) the purpose of the formation of the  
 7 community building district. Such owners of real estate that are  
 8 unknown may also be set out in the articles as such.

9           (b) The articles of association shall further state that  
 10 the owners of real estate forming the district for such purposes  
 11 are willing and obligate themselves to pay the tax or taxes  
 12 which may be levied against all the property in the district and  
 13 special assessments against the real property benefited which may  
 14 be assessed against them to pay the expenses that may be necessary  
 15 to acquire, construct, equip, or maintain a community building or  
 16 buildings for the purposes set forth in section 23-2901.

17           (c) After the articles are signed, such articles shall be  
 18 presented to the county board of the substantially urbanized county  
 19 in which such community building district is located together  
 20 with a petition requesting that such district may be declared a  
 21 community building district under sections 23-2901 to 23-2915 and  
 22 section 2 of this act.

23           Sec. 7. Section 23-2906, Reissue Revised Statutes of  
 24 Nebraska, is amended to read:

25           23-2906 (1) Upon receipt of such petition from resident

1 taxpayers who have organized pursuant to subsection (1) of section  
2 23-2904, the county board shall examine it to determine whether  
3 it complies with the requirements of section 23-2905. Upon finding  
4 that such petition complies with such requirements, the county  
5 board shall set a hearing thereon and cause notice thereof to be  
6 published at least three successive weeks in a newspaper of general  
7 circulation throughout the area to be included in the proposed  
8 district. Such notice shall contain a statement of the information  
9 contained in such petition and of the date, time, and place at  
10 which the hearing shall be held and that at such hearing proposals  
11 may be submitted for the exclusion of land from or the inclusion of  
12 additional land in the proposed district. If the proposed district  
13 lies in two or more counties, the hearing shall be held before the  
14 combined boards of all counties interested and the time and place  
15 thereof shall be as mutually agreed by such boards.

16 (2)(a) Upon receipt of such petition and articles of  
17 association from owners of real property who have organized  
18 pursuant to subsection (2) of section 23-2904, the county board  
19 shall examine the petition and articles to determine whether they  
20 comply with the requirements of section 23-2905. Upon finding  
21 that such petition and articles comply with such requirements, the  
22 county board shall set a hearing thereon and cause notice to be  
23 published at least three successive weeks in a newspaper of general  
24 circulation throughout the area to be included in the proposed  
25 district. Such notice shall contain a statement of the information

1 contained in such petition and articles and of the date, time, and  
2 place at which the hearing shall be held and that at such hearing  
3 proposals may be submitted for the exclusion of land from or the  
4 inclusion of land in the proposed district.

5 (b) All owners of real estate situated in the proposed  
6 district who have not signed the articles of association and who  
7 may object to the organization of the district shall, on or before  
8 the time set for the hearing, file any such objection in writing  
9 stating (i) why such community building district should not be  
10 organized and declared a public corporation in this state, (ii) why  
11 their land will not be benefited by the acquisition, construction,  
12 equipping, or maintenance of a community building or buildings, and  
13 (iii) why their land should not be included in the limits of such  
14 district.

15 Sec. 8. Section 23-2907, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 23-2907 (1) After completion of the hearing required  
18 by section 23-2906 for a community building district organized  
19 pursuant to subsection (1) of section 23-2904, the county board,  
20 if it determines that formation of the proposed district would  
21 promote public health, convenience, or welfare, shall propose such  
22 changes in the boundaries of such proposed district or of the  
23 areas into which such proposed district is to be divided as it  
24 shall deem proper. The county board shall call a special election  
25 for the purpose of approval of the formation of such district and

1 the boundaries thereof by a majority of the qualified electors of  
2 the area affected by such district, or may submit the question of  
3 approval to be voted upon at any primary or general election.

4 (2) After completion of the hearing required by section  
5 23-2906 for a community building district organized pursuant to  
6 subsection (2) of section 23-2904, the county board, if it  
7 determines that formation of the proposed district would promote  
8 public health, convenience, or welfare, shall propose such changes  
9 in the boundaries of such proposed district or of the areas into  
10 which such proposed district is to be divided as it shall deem  
11 proper and shall declare the community building district a public  
12 corporation of this state. If any owner of real estate located  
13 in the proposed district satisfies the county board that his  
14 or her real estate, or any part thereof, will not be benefited  
15 thereby, then the county board may exclude such real estate as  
16 will not be benefited and declare the remainder a district as  
17 petitioned for. No lands included within any municipal corporation  
18 shall be included in any community building district organized  
19 pursuant to subsection (2) of section 23-2904 and no tract of  
20 twenty acres or more which is outside any municipal corporation  
21 and is used primarily for industrial purposes shall be included in  
22 any community building district without the written consent of the  
23 owner of such tract.

24 Sec. 9. Section 23-2908, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           23-2908 (1) If the voters approve the formation and  
2 boundaries of ~~the~~ a district organized pursuant to subsection  
3 (1) of section 23-2904, permanent organization shall be effected  
4 by the appointment by the county board of a board of trustees  
5 consisting of five residents of the district if the district  
6 includes territory in five townships or less. If the district  
7 embraces or includes territory in more than five townships, each  
8 township shall be represented on the board of trustees by one  
9 trustee who shall be a resident of the township. All trustees shall  
10 be appointed for two years and hold office until their successors  
11 have been appointed, except at the first appointment at least  
12 two trustees shall be appointed for one-year terms. The board of  
13 trustees shall organize by electing a president, vice president,  
14 and secretary-treasurer from the members of the board for a term of  
15 one year. All officers shall serve without pay.

16           (2) If the county board approves the formation and  
17 boundaries of a district organized pursuant to subsection (2) of  
18 section 23-2904, permanent organization shall be effected by the  
19 appointment by the county board of a board of trustees consisting  
20 of a number of residents of the county to be determined by the  
21 county board as appropriate for the given district and its intended  
22 functions. All or some of the trustees may be members of the  
23 county board. All trustees shall be appointed for two years and  
24 hold office until their successors have been appointed, except at  
25 the first appointment at least one-half of the trustees shall be

1 appointed for one-year terms. The board of trustees shall organize  
2 by electing a president, vice-president, and secretary from the  
3 members of the board for a term of one year. The county treasurer  
4 of the county shall act as ex officio treasurer of the district.  
5 All officers shall serve without pay or reimbursement.

6           Sec. 10. Section 23-2909, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           23-2909 (1) The board of trustees of any community  
9 building district shall annually fix the amount of money for the  
10 proposed budget statement as may be deemed sufficient and necessary  
11 for carrying out the proposed policy in regard to the contemplated  
12 building or buildings for the ensuing fiscal year. After the  
13 adoption of the district's budget statement, the president and  
14 secretary shall certify the amount to be received from property  
15 taxation, according to the adopted budget statement, to the proper  
16 county clerk or county clerks and the proper county board or boards  
17 which may levy a tax subject to section 77-3443, not to exceed the  
18 amount so certified nor to exceed one and seven-tenths cents on  
19 each one hundred dollars upon the taxable value of all the taxable  
20 property in such district, for the acquisition, construction,  
21 equipping, and ~~or~~ maintenance of the building or buildings in the  
22 district for the fiscal year as provided by law. Such tax shall  
23 be collected as other taxes are collected in the county by the  
24 county treasurer, shall be placed to the credit of the district so  
25 authorizing the same, and shall be paid to the treasurer of the

1 district upon warrants drawn upon the fund by the board of trustees  
 2 of the district or, if a community building district organized  
 3 pursuant to subsection (2) of section 23-2904 has bonds outstanding  
 4 pursuant to sections 16 to 21 of this act, to the county for  
 5 the benefit of such district for the repayment of such bonds.  
 6 Such warrants shall bear the signature of the president and the  
 7 countersignature of the secretary of the district. The amount of  
 8 the property tax levy shall not exceed the amount of funds required  
 9 to defray the expenses of the district for a period of one year as  
 10 set forth in the adopted budget statement.

11 (2) The board of trustees of a community building  
 12 district organized pursuant to subsection (2) of section 23-2904  
 13 may seek authority from the county board to impose a sales and  
 14 use tax of one-half percent, one percent, or one and one-half  
 15 percent upon the same transactions sourced as provided in sections  
 16 77-2703.01 to 77-2703.04 within the community building district in  
 17 accordance with sections 12 to 15 of this act if the county in  
 18 which the community building district is located has not adopted a  
 19 county sales and use tax pursuant to section 13-319.

20 Sec. 11. Section 23-2911, Reissue Revised Statutes of  
 21 Nebraska, is amended to read:

22 23-2911 (1) All warrants for the payment of any  
 23 indebtedness of such a district organized pursuant to subsection  
 24 (1) of section 23-2904, which are unpaid for want of funds, shall  
 25 bear interest, not to exceed six percent per annum, from the

1 date of the registering of such unpaid warrants with the district  
2 treasurer. The amount of such warrants shall not exceed the revenue  
3 provided for the year in which the indebtedness was incurred.

4 (2) All warrants for the payment of indebtedness of a  
5 district organized pursuant to subsection (2) of section 23-2904  
6 shall conform to section 17 of this act. In addition, a district  
7 organized pursuant to subsection (2) of section 23-2904 may issue  
8 bonds in accordance with sections 16 to 21 of this act.

9 Sec. 12. A substantially urbanized county by resolution  
10 of its governing body may authorize the board of trustees of  
11 a community building district to impose a sales and use tax of  
12 one-half percent, one percent, or one and one-half percent upon  
13 the same transactions sourced as provided in sections 77-2703.01  
14 to 77-2703.04 within such district, but outside any incorporated  
15 municipality which has adopted a local sales tax pursuant to  
16 section 77-27,142, on which the state is authorized to impose a  
17 tax pursuant to the Nebraska Revenue Act of 1967 if the county has  
18 not adopted a sales and use tax pursuant to section 13-319. Any  
19 sales and use tax imposed pursuant to this section shall be used to  
20 finance the acquisition, construction, equipping, or maintenance of  
21 a county community building or buildings and adjoining grounds for  
22 housing county enterprises and community activities and for social,  
23 athletic, and recreational purposes pursuant to sections 23-2901 to  
24 23-2915 and section 2 of this act, including the repayment of bonds  
25 issued pursuant to sections 16 to 21 of this act.

1           Sec. 13. (1) The Tax Commissioner shall administer all  
2 sales and use taxes adopted under section 12 of this act. The Tax  
3 Commissioner may prescribe forms and adopt and promulgate rules and  
4 regulations in conformity with the Nebraska Revenue Act of 1967  
5 for the making of returns and for the ascertainment, assessment,  
6 and collection of taxes. The county shall furnish a certified copy  
7 of the adopting or repealing resolution to the Tax Commissioner in  
8 accordance with such rules and regulations. The tax shall begin  
9 the first day of the next calendar quarter which is at least one  
10 hundred twenty days after receipt by the Tax Commissioner of the  
11 certified copy of the adopted resolution. The Tax Commissioner  
12 shall provide at least sixty days' notice of the adoption of the  
13 tax or a change in the rate to retailers. Notice shall be provided  
14 to retailers within the county. Notice to retailers may be provided  
15 through the web site of the Department of Revenue or by other  
16 electronic means.

17           (2) For resolutions containing a termination date, the  
18 termination date shall be the first day of a calendar quarter. The  
19 county shall furnish a certified statement to the Tax Commissioner  
20 no more than one hundred eighty days and at least one hundred  
21 twenty days before the termination date that the termination date  
22 stated in the resolution is valid. If the certified statement is  
23 not furnished within the prescribed time, the tax shall remain in  
24 effect and the Tax Commissioner shall continue to collect the tax  
25 until the first day of the calendar quarter which is at least

1 one hundred twenty days after receipt of the certified statement,  
2 notwithstanding the termination date stated in the resolution. The  
3 Tax Commissioner shall provide at least sixty days' notice of the  
4 termination of the tax to retailers. Notice shall be provided to  
5 retailers within the county. Notice to retailers may be provided  
6 through the web site of the department or other electronic means.

7 (3) In the rental or lease of automobiles, trucks,  
8 trailers, semitrailers, and truck-tractors as defined in the Motor  
9 Vehicle Registration Act, the tax shall be collected by the lessor  
10 on the rental or lease price at the tax rate in effect on the date  
11 the automobile, truck, trailer, semitrailer, or truck-tractor is  
12 delivered to the lessee.

13 (4) The Tax Commissioner shall collect the sales and use  
14 tax concurrently with collection of the state tax in the same  
15 manner as the state tax is collected. The Tax Commissioner shall  
16 remit monthly the proceeds of the tax to the counties imposing the  
17 tax after deducting the amount of refunds made and three percent  
18 of the remainder as an administrative fee necessary to defray  
19 the cost of collecting the tax and the expenses incident thereto.  
20 The Tax Commissioner shall keep full and accurate records of all  
21 money received and distributed. All receipts from the three-percent  
22 administrative fee shall be deposited into the General Fund.

23 (5) Upon any claim of illegal assessment and collection,  
24 the taxpayer has the same remedies provided for claims of illegal  
25 assessment and collection of the state tax. It is the intention

1 of the Legislature that the provisions of law which apply to the  
2 recovery of state taxes illegally assessed and collected apply  
3 to the recovery of sales and use taxes illegally assessed and  
4 collected under section 13-319.

5 (6) Boundary changes or the adoption of a sales and use  
6 tax by an incorporated municipality that affects any tax imposed  
7 by this section shall be governed as provided in subsections (3)  
8 through (10) of section 77-27,143.

9 Sec. 14. The proceeds of the sales and use tax imposed  
10 by a community building district by the authority of the county  
11 shall be distributed to the county for the benefit of the community  
12 building district and used solely to finance the acquisition,  
13 construction, equipping, or maintenance of a community building or  
14 buildings and adjoining grounds for housing county enterprises and  
15 community activities and for social, athletic, and recreational  
16 purposes within the community building district.

17 Sec. 15. (1) All relevant provisions of the Nebraska  
18 Revenue Act of 1967 not inconsistent with sections 13-319, 13-324,  
19 and 13-325 shall govern transactions, proceedings, and activities  
20 pursuant to any sales and use tax imposed by a community building  
21 district by authority of a county.

22 (2) For purposes of the sales and use tax imposed by a  
23 community building district by authority of a county, all retail  
24 sales, rentals, and leases as defined and described in the Nebraska  
25 Revenue Act of 1967 are sourced as provided in sections 77-2703.01

1 to 77-2703.04.

2           Sec. 16. (1) A community building district organized  
3 pursuant to subsection (2) of section 23-2904 may borrow money for  
4 corporate purposes and issue general obligation bonds therefor. The  
5 board of trustees of such district may provide for the payment  
6 of such bonds from tax proceeds received for the benefit of the  
7 district pursuant to section 23-2909, from revenue obtained from  
8 the operation of the community building or buildings and adjoining  
9 grounds, and from other revenue sources legally available to the  
10 district.

11           (2) The county treasurer as ex officio treasurer of the  
12 district shall be responsible for all funds of the district coming  
13 into his or her hands. He or she shall collect all taxes and other  
14 revenue of the district and deposit such taxes and revenue in a  
15 bond sinking fund for the payment of principal and interest on any  
16 bonds outstanding.

17           Sec. 17. (1) For the purpose of paying the cost of the  
18 acquisition, construction, equipping, or maintenance of a community  
19 building or buildings and adjoining grounds for housing county  
20 enterprises and community activities and for social, athletic,  
21 and recreational purposes, the board of trustees of a community  
22 building district organized pursuant to subsection (2) of section  
23 23-2904 shall have the power to issue negotiable bonds of any such  
24 district, to be called community building district bonds, payable  
25 in not to exceed thirty years. Each issue of general obligation

1 bonds shall mature or be subject to mandatory redemption so that  
2 the first principal repayment is made not more than five years  
3 after the date of issuance and so that at least twenty percent of  
4 the district's bonds then outstanding shall be repaid within ten  
5 years after the date of issuance. Such bonds shall bear interest  
6 payable annually or semiannually. Such bonds may either be sold by  
7 the district or delivered to the contractor in payment for the work  
8 but in either case for not less than their par value.

9       (2) For the purpose of making partial payments as the  
10 work progresses, warrants may be issued by the board of trustees  
11 upon certificates of the engineer in charge showing the amount of  
12 work completed and materials necessarily purchased and delivered  
13 for the orderly and proper continuation of the project in a sum  
14 not to exceed ninety-five percent of the cost thereof. Warrants  
15 for capital outlays of the district shall become due and payable  
16 not later than five years after the date of issuance, except  
17 that such warrants need not be retired on such date or within  
18 such five-year period and shall not be in default if the district  
19 court of the county determines, upon application to it by the  
20 district, that the district does not have the funds to retire such  
21 warrants and the district is unable to sell its bonds in an amount  
22 sufficient to retire such warrants. Such application may be filed  
23 either before or within ninety days after the due date of the  
24 warrants, and no warrant for which an extension application has  
25 been made to the district court and a hearing date set by the court

1 shall be in default while such application is pending before the  
2 court. Notice of the filing of such application and the time and  
3 place of the hearing thereon shall be published in a newspaper of  
4 general circulation in the county the same day each week for three  
5 consecutive weeks. Within five days after the first publication  
6 of such notice, the district shall cause to be mailed, by United  
7 States certified mail, a copy of such notice to each holder of  
8 warrants covered by the application whose name and post office  
9 address are known to the district. Prior to the hearing, proof  
10 of such mailing shall be made by affidavit of a trustee of the  
11 district or the district's attorney that such mailing was made and  
12 further that the district, its trustees, and its attorney, after  
13 diligent investigation and inquiry, were unable to ascertain and do  
14 not know the name and post office address of any holder of such  
15 warrants other than those to whom notice has been mailed in writing  
16 or who have waived notice in writing or entered an appearance in  
17 the proceeding.

18 (3) Upon making such determination, the district court  
19 may make such orders concerning retirement of the warrants as  
20 it determines proper under the circumstances of the district.  
21 Such warrants shall draw interest, at such rate as fixed by the  
22 board of trustees and endorsed on the warrants, from the date of  
23 presentation for payment and shall be redeemed and paid from the  
24 proceeds of special assessments or from the sale of the bonds  
25 issued and sold as provided in this section or from any other funds

1 available for that purpose. Bonds to redeem such warrants shall  
2 be issued as soon as economically feasible. The board of trustees  
3 shall pay to the contractor interest at the rate specified in  
4 section 39-1349 on the amounts due on partial and final payments,  
5 beginning thirty days after the certification of the amounts due  
6 by the engineer in charge and approval by the board of trustees  
7 and running until the date that the warrant is tendered to the  
8 contractor.

9 (4) Warrants issued for operation and maintenance  
10 expenses of the district shall be issued not later than sixty  
11 days after the date upon which the district is in receipt of a  
12 bill for the amount of operation or maintenance expenses owed and  
13 such warrants shall become due and payable not later than three  
14 years after the date of issuance. If a warrant for operation or  
15 maintenance expenses is not issued within such sixty-day period,  
16 the amount owed by the district shall bear interest from the  
17 sixty-first day until the date upon which the warrant is issued at  
18 a rate equivalent to one and one-half times the rate specified in  
19 subsection (2) of section 45-104.02. The district shall agree to  
20 pay annual or semiannual interest on all capital outlay warrants  
21 issued by the district and shall issue warrants to pay such  
22 interest or shall issue its warrants in return for cash to pay such  
23 interest. Interest on capital outlay warrants shall be represented  
24 by coupons payable to the bearer attached to each warrant, but  
25 coupons shall not be issued for interest accruing after the due

1 date of such warrant. All coupons shall show on their face the  
2 number of the warrant to which they pertain and that the coupon  
3 shall not be valid for payment of any interest after the warrant  
4 has been called for redemption or redeemed. Warrant interest  
5 coupons not paid when due for lack of funds shall be registered,  
6 bear interest, and be paid the same as is provided in section  
7 10-209 for bond coupons. Warrants issued to pay interest on capital  
8 outlay warrants shall become due and payable in the same time as  
9 capital outlay warrants.

10 (5) The district may, if determined appropriate by the  
11 board of trustees, pay fees to fiscal agents in connection with the  
12 placement and registration of ownership of warrants issued by the  
13 district.

14 Sec. 18. The board of trustees of a community building  
15 district organized pursuant to subsection (2) of section 23-2904  
16 or such holder or holders of any bond or bonds of the district  
17 shall file in the district court for the county in which the lands  
18 of the district or the greater portion thereof are situated, a  
19 petition requesting, in effect, that the proceedings aforesaid may  
20 be examined, approved, and confirmed by the court. The petition  
21 shall state the facts showing the proceedings had for the issuance  
22 and sale of the bonds, and shall state generally that the community  
23 building district was duly organized and that the first board of  
24 trustees was duly appointed. The petition need not state the facts  
25 showing such organization of the district or the appointment of the

1 first board of trustees.

2           Sec. 19. The court shall fix the time for the hearing  
3 of the petition filed pursuant to section 18 of this act and  
4 shall order the clerk of the court to give and publish notice  
5 of the filing of the petition. The notice shall be given by  
6 publication the same day of each week for three consecutive weeks.  
7 The notice shall state the time and place fixed for the hearing  
8 of the petition and the request of the petition and that any  
9 person interested in the organization of the district or in the  
10 proceedings for the issuance or sale of the bonds may, on or before  
11 the day fixed for the hearing of the petition, move to dismiss  
12 the petition or answer thereto. The petition may be referred to  
13 and described in the notice as the petition of .....  
14 (giving the district's name) requesting that the proceedings for  
15 the issuance and sale of such bonds of such district may be  
16 examined, approved, and confirmed by the court.

17           Sec. 20. Any person interested in the district or in the  
18 issuance or sale of the bonds may move to dismiss the petition  
19 or file an answer thereto. The rules of pleading promulgated by  
20 the Supreme Court respecting motions and answer to a petition  
21 shall be applicable to motions and answer to the petition in such  
22 special proceedings. The persons so filing motions and answering  
23 the petition shall be the defendants to the special proceedings  
24 and the board of trustees shall be the plaintiff. Every material  
25 statement of the petition not specially controverted by the answer

1 shall, for the purpose of such special proceedings, be taken as  
2 true. Each person failing to answer the petition shall be deemed  
3 to admit as true all the material statements of the petition. The  
4 rules of pleading and practice used in the district courts of this  
5 state which are not inconsistent with sections 16 to 21 of this act  
6 are applicable to the special proceedings herein provided for.

7           Sec. 21. Upon the hearing of such special proceedings,  
8 the court shall have the power and jurisdiction to examine and  
9 determine the legality and validity of, and approve and confirm  
10 or disapprove and disaffirm, each and all of the proceedings for  
11 the organization of such district under sections 23-2901 through  
12 23-2915 and section 2 of this act, from and including the petition  
13 for the organization of the district, and all other proceedings  
14 which may affect the legality or validity of the bonds and the  
15 order of the sale and the sale thereof. The court in inquiring into  
16 the regularity, legality, or correctness of such proceedings shall  
17 disregard an error, irregularity, or omission which does not affect  
18 the substantial rights of the parties to such special proceedings.  
19 It may approve and confirm such proceedings in part and disapprove  
20 and declare illegal or invalid other and subsequent parts of the  
21 proceedings. The court shall find and determine whether the notice  
22 of the filing of the petition has been duly given and published  
23 for the time and in the manner prescribed in section 19 of this  
24 act. The costs of the special proceedings may be allowed and  
25 apportioned between the parties in the discretion of the court. If

1 the court shall determine the proceedings for the organization of  
2 the district and for the voting and issuing of the bonds legal and  
3 valid, the board of trustees shall then prepare a written statement  
4 beginning with the filing of the petition for the organization  
5 of the district, including all subsequent proceedings for the  
6 organization of the district and voting and issuing of the bonds,  
7 and ending with the decree of the court finding the proceedings for  
8 the organization of the district and the proceedings for the voting  
9 and issuing of the bonds legal and valid. The written statement  
10 shall be certified under oath by the board of trustees of the  
11 district.

12           Sec. 22. (1) A sanitary and improvement district having  
13 the identical boundaries as a community building district may be  
14 organized concurrently with a community building district organized  
15 pursuant to subsection (2) of section 23-2904 and bonds issued by  
16 both districts, each for its own corporate purpose, may be issued  
17 such that the bonds are offered as components of a single offering.

18           (2)(a) The county in which a community building district  
19 organized pursuant to subsection (2) of section 23-2904 may also  
20 pledge for the benefit of a community building district and pay to  
21 the community building district for the repayment of its bonds a  
22 portion of the ad valorem tax imposed by the county for its general  
23 fund equal to that portion by which the total valuation within such  
24 community building district exceeds the valuation thereof as of  
25 January 1 of the year prior to the year in which the county general

1 fund ad valorem taxes are to be divided.

2 (b) That portion of the county general fund ad valorem  
3 tax on real property in the community building district in excess  
4 of such amount, if any, may be allocated to and, when collected,  
5 paid into a special fund for the benefit of the community building  
6 district to be used solely for the repayment of bonds of the  
7 community building district. When such bonds have been paid, the  
8 county treasurer shall revert to paying such portion to the county  
9 general fund.

10 Sec. 23. Section 31-763, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 31-763 Whenever any city or village annexes all the  
13 territory within the boundaries of any sanitary and improvement  
14 district organized under the provisions of sections 31-701 to  
15 31-726, or under sections 31-727 to 31-762, or any road improvement  
16 district organized under sections 39-1601 to 39-1636, or any fire  
17 protection district authorized under Chapter 35, article 5, or any  
18 community building district organized pursuant to subsection (2) of  
19 section 23-2904, the district shall merge with the city or village  
20 and the city or village shall succeed to all the property and  
21 property rights of every kind, contracts, obligations and choses  
22 in action of every kind, held by or belonging to the district,  
23 and the city or village shall be liable for and recognize, assume,  
24 and carry out all valid contracts and obligations of the district.  
25 All taxes, assessments, claims, and demands of every kind due or

1 owing to the district shall be paid to and collected by the city or  
2 village. Any special assessments which the district was authorized  
3 to levy, assess, relevel or reassess, but which were not levied,  
4 assessed, relevelled or reassessed, at the time of the merger, for  
5 improvements made by it or in the process of construction or  
6 contracted for may be levied, assessed, relevelled or reassessed by  
7 the annexing city or village to the same extent as the district  
8 may have levied or assessed but for the merger. ~~Nothing~~ ~~PROVIDED,~~  
9 ~~nothing~~ herein contained shall authorize the annexing city or  
10 village to revoke any resolution, order, or finding made by the  
11 district in regard to special benefits or increase any assessments  
12 made by the district, but such city or village shall be bound by  
13 all such findings or orders and assessments to the same extent as  
14 the district would be bound; and provided further, that no district  
15 so annexed shall have power to levy any special assessments after  
16 the effective date of such annexation.

17 Sec. 24. Section 31-764, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 31-764 The trustees of a road improvement district, ~~or~~  
20 fire protection district, or community building district organized  
21 pursuant to subsection (2) of section 23-2904 or the trustees or  
22 administrator of a sanitary and improvement district shall within  
23 thirty days of the effective date of the merger submit to the  
24 city a written accounting of all assets and liabilities, contingent  
25 or fixed, of the district. Unless the city or village within

1 six months thereafter brings an action against the trustees or  
2 administrator of the district for an accounting or for damages for  
3 breach of duty, the trustees or administrator shall be discharged  
4 of all further duties and liabilities and their bonds exonerated.  
5 If the city or village brings such an action and does not recover  
6 judgment in its favor, the taxable costs may include reasonable  
7 expenses incurred by the trustees of a road improvement district  
8 or fire protection district or the trustees or administrator of a  
9 sanitary and improvement district in connection with such suit and  
10 a reasonable attorney's fee for the trustees' or administrator's  
11 attorney. The city or village shall represent the district and  
12 all parties who might be interested in such an action. The  
13 city or village and such trustees or administrator shall be  
14 the only necessary parties to such action. Nothing ~~÷ PROVIDED,~~  
15 ~~nothing~~ contained in this section shall authorize the trustees or  
16 administrator to levy any special assessments after the effective  
17 date of the merger.

18 Sec. 25. Section 31-765, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 31-765 The merger shall be effective thirty days after  
21 the effective date of the ordinance annexing the territory within  
22 the district. If ~~÷ PROVIDED,~~ if the validity of the ordinance  
23 annexing the territory is challenged by a proceeding in a court  
24 of competent jurisdiction, the effective date of the merger shall  
25 be thirty days after the final determination of the validity of

1 the ordinance. The trustees of a road improvement district, ~~or~~  
2 fire protection district, or community building district organized  
3 pursuant to subsection (2) of section 23-2904 or the trustees or  
4 administrator of a sanitary and improvement district shall continue  
5 in possession and conduct the affairs of the district until the  
6 effective date of the merger, but shall not during such period levy  
7 any special assessments after the effective date of annexation.

8           Sec. 26. Section 31-766, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           31-766 If only a part of the territory within any  
11 sanitary and improvement district, any road improvement district,  
12 ~~or any fire protection district, or any community building district~~  
13 organized pursuant to subsection (2) of section 23-2904 is annexed  
14 by a city or village, the road improvement district, ~~or fire~~  
15 protection district, or community building district acting through  
16 its trustees or the sanitary and improvement district acting  
17 through its trustees or administrator and the city or village  
18 acting through its governing body may agree between themselves as  
19 to the division of the assets, liabilities, maintenance, or other  
20 obligations of the district for a change in the boundaries of  
21 the district so as to exclude the portion annexed by the city  
22 or village or may agree upon a merger of the district with the  
23 city or village. The division of assets, liabilities, maintenance,  
24 or other obligations of the district shall be equitable, shall  
25 be proportionate to the valuation of the portion of the district

1 annexed and to the valuation of the portion of the district  
2 remaining following annexation, and shall, to the greatest extent  
3 feasible, reflect the actual impact of the annexation on the  
4 ability of the district to perform its duties and responsibilities  
5 within its new boundaries following annexation. In the event a  
6 merger is agreed upon, the city or village shall have all the  
7 rights, privileges, duties, and obligations as provided in sections  
8 31-763 to 31-766 when the city annexes the entire territory within  
9 the district, and the trustees or administrator shall be relieved  
10 of all further duties and liabilities and their bonds exonerated  
11 as provided in section 31-764. No agreement between the district  
12 and the city or village shall be effective until submitted to and  
13 approved by the district court of the county in which the major  
14 portion of the district is located. No agreement shall be approved  
15 which may prejudice the rights of any bondholder or creditor of the  
16 district or employee under contract to the district. The court may  
17 authorize or direct amendments to the agreement before approving  
18 the same. If the district and city or village do not agree upon the  
19 proper adjustment of all matters growing out of the annexation of  
20 a part of the territory located within the district, the district,  
21 the annexing city or village, any bondholder or creditor of the  
22 district, or any employee under contract to the district may apply  
23 to the district court of the county where the major portion of the  
24 district is located for an adjustment of all matters growing out  
25 of or in any way connected with the annexation of such territory,

1 and after a hearing thereon the court may enter an order or decree  
2 fixing the rights, duties, and obligations of the parties. In every  
3 case such decree or order shall require a change of the district  
4 boundaries so as to exclude from the district that portion of  
5 the territory of the district which has been annexed. Such change  
6 of boundaries shall become effective on the date of entry of  
7 such decree. Only the district and the city or village shall be  
8 necessary parties to such an action. Any bondholder or creditor of  
9 the district or any employee under contract to the district whose  
10 interests may be adversely affected by the annexation may intervene  
11 in the action pursuant to section 25-328. The decree when entered  
12 shall be binding on the parties the same as though the parties had  
13 voluntarily agreed thereto. Nothing contained in this section shall  
14 authorize any district to levy any special assessments within the  
15 annexed area after the effective date of annexation.

16           Sec. 27. Original sections 23-2901, 23-2902, 23-2903,  
17 23-2904, 23-2905, 23-2906, 23-2907, 23-2908, 23-2909, 23-2911,  
18 31-763, 31-764, 31-765, and 31-766, Reissue Revised Statutes of  
19 Nebraska, are repealed.